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TAGS: [ECON](#) [EFIN](#) [CH](#)  
SUBJECT: AUSTR STRATFORD RAISES CONCERNS ABOUT CHINA'S  
DRAFT POSTAL LAW

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¶1. (SBU) Summary: On July 14, Assistant USTR (AUSTR) for Asia Tim Stratford told State Postal Bureau (SPB) Deputy Administrator Wang Yuci that a provision in China's latest draft postal law is of great concern to the United States as it would seem to exclude foreign firms, but not domestic firms, from the domestic document delivery business. He cautioned that USTR lawyers were reviewing the draft law to determine whether it is inconsistent with China's WTO commitments. Although Wang claimed that the draft law, now in its 10th revision, was WTO-consistent, he accepted AUSTR Stratford's offer to have USTR technical experts meet with SPB experts to discuss WTO compliance. AUSTR Stratford also discussed the Second U.S.-China Symposium on Postal Reform and Express Delivery Services (EDS). After the meeting, Commerce Deputy Assistant Secretary for Asia Ira Kasoff joined AUSTR Stratford to continue discussion of these issues over dinner with Wang and other SPB officials. End Summary.

#### 10th Draft of Postal Law Raises WTO Concerns

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¶2. (SBU) On July 14, Assistant USTR for Asia Tim Stratford raised United States concerns over the draft postal law to State Postal Bureau (SPB) Deputy Administrator Wang Yuci. He informed Wang that a provision in the so-called 10th draft postal law is of great concern to the United States as it would seem to exclude foreign firms from the domestic document delivery business. AUSTR Stratford stressed that this provision would put United States companies at a tremendous competitive disadvantage to Chinese competitors.

¶3. (SBU) AUSTR Stratford noted that the U.S. Government was not aware of any countries that have such restrictions on foreign companies in place. He also said that such a limitation was not the best policy for growing the express delivery service (EDS) business in China and serving Chinese customers. AUSTR Stratford reminded Wang that the U.S. companies in this sector have made major investments in China

and noted the UPS hub in East China and the forthcoming FedEx hub in southern China.

14. (SBU) In addition to the above-mentioned economic reasons, AUSTR Stratford said SPB should reconsider the problematic provision in the 10th draft because of China's WTO commitments. He also noted that in previous JCCT's, former Vice Premier Wu Yi said that the Chinese Government would not take actions that would have a negative impact on foreign-invested enterprises.

15. (SBU) AUSTR Stratford cautioned that the 10th draft raised WTO concerns and that USTR lawyers were reviewing the draft law to determine whether it is inconsistent with China's WTO commitments. In particular, the lawyers are assessing whether there is a GATS violation on the treatment of foreign operators versus domestic operators. He noted that this is a question of national treatment and that the U.S. Government wants a clear understanding of the draft law's potential impact on foreign operators before it is passed from the State Council Legislative Affairs Office (SCLAO) to the National People's Congress (NPC) for review. AUSTR Stratford asked to see SPB's WTO compliance analysis given that USTR is in the midst of conducting its own analysis. He cautioned that SPB - as a government agency - would want to be careful about recommending a draft law for review if it had WTO problems.

Postal Law Reform Proposed for JCCT Agenda

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16. (SBU) AUSTR Stratford also told Wang that postal law reform would be on the United States' list of proposed issues for the 19th JCCT scheduled for September 16 in the United States. He also said senior USTR and Commerce officials would be raising U.S. concerns about the 10th draft in a meeting with MOFCOM Vice Minister Ma Xiaohong on July 17.

SPB Says Draft Postal Law is WTO Compliant  
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17. (SBU) SPB) Deputy Administrator Wang thanked AUSTR Stratford for introducing the U.S. viewpoint and said SPB understood the U.S. concerns. He claimed that China conducted a careful study of its WTO commitments and that the 10th draft postal law was WTO compliant. He also said that honoring WTO commitments was a very important principle and then gave the floor to SPB Director General (DG) for Policy and Legal Affairs Da Wa.

18. (SBU) Da said the United States and China have discussed this issue over 12 times and opined that the core of the issue was how to understand China's WTO commitment. He reviewed China's assessment of its WTO commitments and remarked that when China joined the WTO, China did not commit to open base or ordinary postal services. He also said China only committed to open express mail delivery services with the exception of what was reserved for China's postal monopoly. He defined the postal monopoly as including the delivery of letter mail and said that according to the existing postal law, all delivery of letter mail, express mail, private mail, public mail and ordinary mail is under the public monopoly. Da said there were no limitations on weight and charges of letter mail.

SPB Says WTO Commitment Only Covers Packages  
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¶9. (SBU) Da claimed that when China entered WTO, it only committed to opening the market for express delivery of packages, which did not include mail. He cited China's horizontal commitments and said China only allowed entrusted companies to operate incoming and outgoing letter mail delivery services. By way of entrustments, foreign enterprises continue to operate those letter mail delivery services, except in the area of private and government mail. He claimed that China has strictly followed its WTO commitments and commented that when the issue of national treatment is discussed, it is only in the committed areas.

#### WTO Compliance Concerns Remain

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¶10. (SBU) In response, AUSTR Stratford said WTO experts from other countries might have a different interpretation than SPB. He reminded Wang that NDRC promulgated a rule on auto parts relating to factories that use them and noted that the United States and European Union believed the rule discriminated against imported auto parts. AUSTR Stratford said China had a different analysis and that the WTO found mistakes in China's analysis, which resulted in WTO problems.

¶11. (SBU) AUSTR Stratford stressed that he was not saying that the United States believes the 10th draft is a WTO violation, as there are many complicated issues that have to be considered. He recommended that WTO experts from both the United States and China sit down and think through the complicated WTO issues involved before - and not after - the draft postal law is adopted. Although Wang claimed that the 10th draft was WTO-compliant, he accepted AUSTR Stratford's offer to have USTR technical experts meet with SPB experts to discuss WTO compliance. However, when AUSTR

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Stratford asked for clarification as to whether it was more appropriate to have technical discussions with SPB or SCLAO, Da commented that the draft postal law has been out of SPB's hands since 2002.

#### Second Postal Reform and Express Delivery Symposium

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¶12. (SBU) AUSTR Stratford also discussed the Second U.S.-China Symposium on Postal Reform and Express Delivery Services (EDS) and proposed that the dates be switched to September 18 and 19. After the meeting, Commerce Deputy Assistant Secretary for Asia Ira Kasoff joined AUSTR Stratford for a dinner with Wang, SPB Director General for Policy and Legal Affairs Da Wa and other SPB officials. During dinner, Wang said SPB accepted the revised dates of September 18 and 19 and confirmed that SPB accepted the U.S. Government suggestion to meet with U.S. Department of Justice officials to discuss anti-trust issues while in Washington, DC for the symposium.

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